IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE EIGHTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

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WRIT PETITION NO : 13792 of 2005

Between:

Y.S.Vidya Sagar, S/o.Late Sriramamurthy,
State Bank of India, Kantakapalle Branch, (Under Suspension)
R/o.Flat No.2B, Kuppli Apartments, Dwarakanagar, Visakhapatnam.

..... PETITIONER

AND

1. Deputy General Manager, Disciplinary Authority, State Bank of India, Zonal Office, Visakhapatnam District.
2. The Branch Manager, State Bank of India, Kantakapalle, Vizianagaram District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of mandamus or any other appropriate writ or direction declaring the action of the respondent in initiating departmental enquiry in respect of the same set of allegations in which criminal case in Cr.9/2003 registered at Kothavalasa police station, Vizianagaram district as illegal arbitrary and consequently direct the respondents to stay the departmental enquiry pending finalisation of the criminal case registered against the petitioner.

Counsel for the Petitioner: MRS.PULIPATI RADHIKA

Counsel for the Respondent No.1: SMT.C.VIJAYA LAXMI

Counsel for the Respondent No.2: MR.E.MADAN MOHAN RAO

The Court at the admission stage made the following:

ORDER:

This writ petition is filed aggrieved by the action of the respondents in proceeding with the departmental enquiry on certain alleged irregularities, such as omissions and commissions.

According to the petitioner, an FIR was registered with the Police on certain allegations and on the very same allegations the respondents are now proposing to proceed with the departmental enquiry. When, on identical allegations, a criminal case is registered, the respondents are prohibited from proceeding with the departmental enquiry in view of the various judgments of the Apex Court. Therefore, it is not proper for the respondents to proceed with the departmental enquiry against the petitioner. It is stated that as the petitioner met with an accident in the year 2003 and suffered fractures to his right leg as well as to his right hand and he was in the hospital for quite a long time, he is not in a position to proceed with the department in enquiry. It is also stated that in any case, the respondents are not entitled to proceed with the departmental enquiry.

The contention of the petitioner is opposed by the learned Standing Counsel appearing for the respondent-Bank. The learned Standing

Counsel contended that if a criminal case is registered and the criminal case does not proceed or its disposal is being unduly delayed, the department is entitled to proceed with the departmental proceedings to conclude them at an early date so as to decide one way or the other. It is further contended that taking into consideration the view expressed by the Apex Court, it is not proper and just to grant any relief to the petitioner.

At the time of hearing, the learned counsel for the petitioner represented that the enquiry was started in the month of May 2005 and is being adjourned from time to time and in fact it is adjourned to today for cross-examination. As the petitioner met with an accident, the learned counsel sought another two months time to the petitioner to participate in the enquiry. The learned counsel also sought for the documents relied upon by the respondents as evidence.

Heard both sides and considered the material on record.

Admittedly, against the petitioner, Crime No.9 of 2003 was registered with P.S., Kothavalasa, Vizianagaram for the alleged commissions and omissions committed in the course of discharge of his duties as an Officer of the respondent-Bank. Subsequently, the respondent-Bank having found that there is no progress in the criminal proceedings, initiated departmental proceedings. When a show cause notice was issued, it is stated that the petitioner took six months time for submitting his explanation. Thereafter, when an Enquiry Officer was appointed and the date of enquiry was fixed, the petitioner has come up with the present writ petition.

The learned counsel for the petitioner referred to various decisions of the Apex Court contending that when on identical allegations both the departmental proceedings and the criminal proceedings are initiated, it would be proper to stay the departmental proceedings till the completion of the criminal proceedings. But, in **Capt.M.Paul Anthony v Bharat Gold Mines Ltd., and another,** the Apex Court has clarified that if the criminal case does not proceed or its disposal is being unduly delayed, the departmental proceedings, even if they were

stayed on account of the pendency of the criminal case, can be resumed and proceeded with so as to conclude them at an early date, so that if the employee is found not guilty his honour may be vindicated and in case he is found guilty, the administration may get rid of him at the earliest.

In view of the same, it is perfectly just and proper to proceed with the enquiry as there is no progress in the criminal proceedings though the case was registered in the year 2003. In fact, it is not even the case of the petitioner that the charge sheet was filed by the Police.

Under the above circumstances, it is proper and just for the respondent-Bank to proceed with the departmental proceedings.

As it is stated that the petitioner met with an accident in the year 2003 and suffered fractures and subsequently also he suffered injuries, immediately he may not be in a position to participate in the enquiry. Therefore, without going into the merits of the allegations, the Enquiry Officer is directed to give four weeks time to the petitioner to participate in the enquiry. It is also made clear that the Enquiry Officer is directed to give documents, if any, relied upon by the respondent-Bank as evidence, to the petitioner.

With the above directions and clarifications, the writ petition is disposed of. No costs.

18.07.2005

VGB

To

1. The Deputy General Manager, Disciplinary Authority, State Bank of India, Zonal Office, Visakhapatnam District.

2. The Branch Manager, State Bank of India, Kantakapalle, Vizianagaram District.

3. 2CD copies.